

NDormer - 6/21/2016

Internal Challenge: Denied. Violation 383.93b2 is valid and will remain on the inspection report.

The civil penalty will remain valid as well.

Per LT Railsback, this exact issue has already been addressed through the DataQ process, see ID#1419542. His response then remains the response now - "Interpretation Question 12 was placed into the regulations via the rule making process, and until such time that said interpretation is removed by the same rule making process, the interpretation and enforcement thereof will continue."

"FMCSA also presented a National Training Center Instructor Recertification in September 2014 at which time Instructors were advised to follow Interpretation Question 12 due to the fact that it is what the FMCSRs require. To date, FMCSA NTC has not advised its instructors to teach differently."

Per 383.93(b)(2), the driver was in violation at the time of inspection for no passenger endorsement.

Challenge denied. I will release the hold on the fines and mail a denial letter.

Called 785-232-0753 and spoke with W. Robert Alderson and explained the denial. In the document from Scott Darling to Congresswoman Walorski that was provided along with this challenge, it clearly states in paragraph 3 that the FMCSA is working to publish an updated interpretation and WHEN PUBLISHED(my emphasis) the guidance will state that drivers in this setting will no longer need Passenger or SB endorsements. It has not been published, thus current enforcement is unchanged. Mr. Alderson enquired about an appeal before KCC. I stated that information will be in his denial letter.

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Challenge denial letter also mailed to W. Robert Alderson, the attorney who submitted the challenge.

122 S. W. 7th Street
Topeka, KS 66603



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Mark A. Bruce, Superintendent

Sam Brownback, Governor

June 21, 2016

QUALITY DRIVE AWAY INC
64825 CR 31
GOSHEN, IN 46528

RE: Invoice #H000562134; Challenge Review

To Mr. W. Robert Alderson:

This letter is to inform you that your challenge concerning violation **383.93(b)(2) – No passenger vehicle endorsement on CDL** has been denied. The violation will remain on your carrier profile. Invoice #H000562134 remains valid and provides information for payment of the fines due. If you are dissatisfied with this outcome, please be advised that you have the right to an administrative hearing with the Kansas Corporation Commission.

Your request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Hearing requests shall be sent to the Kansas Highway Patrol at the address listed above and must be received within fifteen days from the date of this letter.

Thank you for your time and attention to this inspection report.

Sincerely,

CHRISTOPHER J. TURNER, Captain
Troop I, Topeka

CT: nd